

MONTANA STATE AUDITOR
MONICA LINDEEN



Protecting Montana's consumers through insurance and securities regulation

Repeal Franchise Insurance – SB 141

Sponsored by Senator Joe Tropila at the request of the State Auditor's Office

BUSINESS & LABOR

EXHIBIT NO. 5

DATE 1/9/09

BILL NO. SB 141

What does this bill do?

The franchise disability insurance statute was originally enacted in 1947 as a way for small employers to group together in order to purchase health insurance coverage. The statute was based on a model of the National Association of Insurance Commissioners (NAIC).

Subsequent state and federal legislation reforming employer group health insurance coverage made franchise disability insurance obsolete. In franchise disability insurance, the employer will pay all or part of the premiums for coverage for the employees, but the employees will be issued the same form of individual coverage. The Montana Small Employer Health Insurance Availability Act passed in 1993 and the Health Insurance Portability and Accountability Act (HIPAA), which was added to Title 33 in 1997, fundamentally conflict with the provisions of the franchise disability insurance statute. These more recent laws clearly provide that when an employer sponsors health insurance for his or her employees (which generally involves paying some portion of the premium), group health coverage must be issued. Further, the Montana Small Employer Health Insurance Availability Act protects small employers by requiring guaranteed issue and guaranteed renewability of group health insurance products, as well as ensuring nondiscrimination on the basis of health status. The Act also gave employers the option to create or join purchasing pools and bona fide associations in order to obtain coverage.

Why do we need this legislation?

This bill would repeal the Montana franchise disability insurance statute, 33-22-401 MCA, because it is no longer necessary and it conflicts with more recent health insurance laws.

In 2004, the NAIC recognized that the franchise disability insurance model conflicted with small employer group reforms and HIPAA and repealed it. The Montana franchise disability insurance statute, 33-22-401 MCA, based on the NAIC model, is also obsolete and should be repealed.